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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-second session

SUMMARY RECORD OF THE 12th MEETING

Held at Palais Wilson, Geneva,
on Wednesday, 3 May 2000, at 10.a.m.

Chairperson: Mrs. BONOAN-DANDAN

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GE.00-41832 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Jordan (E/1990/Add.17; HRI/CORE/1/Add.18/Rev.1; E/C.12/CA/JOR/1; E/C.12/Q/JOR/1)

1. The CHAIRPERSON said that the Permanent Mission of Jordan had indicated that the State party had been unable to send a delegation to introduce its report or provide answers to the issues raised and was therefore requesting that the consideration of its report should be postponed. She had also received a letter from the Jordanian Ministry of Foreign Affairs and a note verbale from the Ambassador in that regard.

2. Mr. TEXIER, supported by Mr. WIMER ZAMBRANO, said that, since Jordan's situation was similar to Portugal's, both States parties should be treated in the same way and Jordan's report should therefore be considered at a later date. In future, however, the Committee should be stricter and require respect for the timetable.

3. Following a discussion in which the CHAIRPERSON, Mr. GRISSA, Mr. HUNT, Mr. CEAUSU and Mr. RIEDEL took part, the CHAIRPERSON said that a decision would be taken after the Committee had been informed by the Ambassador of the reasons for the State party's request for the postponement of the consideration of its second periodic report.

Initial report of Egypt (E/1990/5/Add.38; HRI/CORE/1/Add.19; E/C.12/CA/EGY/1; E/C.12/Q/EGY/1; HR/CESCR/NONE/2000/6) (continued)

4. At the invitation of the Chairperson, the members of the delegation of Egypt resumed their places at the Committee table.

5. The CHAIRPERSON invited Committee members to ask additional questions on articles 2 and 3 of the Covenant.

Articles 2 and 3 of the Covenant

6. Mr. GRISSA said that the fact that a child born to an Egyptian woman married to a foreigner could not acquire Egyptian nationality, unlike a child born to an Egyptian man married to a foreigner, constituted discrimination that could not be justified by Egypt's large population.

7. Mr. ANTANOVICH said that there were approximately 7,000 officially recognized refugees in Egypt, in addition to 80,000 Palestinians. Asylum-seekers had to apply to the Office of the High Commissioner for Refugees (UNHCR), which then made a recommendation to the Egyptian authorities. UNHCR and the Government of Egypt were jointly seeking to set up a national office that would be responsible for granting refugee status. It would be interesting to know whether that cooperative effort was ongoing and whether the State party would soon be in

a position to deal with such issues by itself. Concerning the right to work and to social security, Egypt still maintained its reservation to article 24 of the Convention relating to the Status of Refugees, which stipulated equal treatment for nationals and refugees in that regard. However, it had not formulated a reservation to article 17, which guaranteed the right of refugees to wage-earning employment. That situation encouraged refugees to work illegally. He would welcome further explanation as to why Egypt had retained its reservation to article 24 of the Convention.

8. Mr. SADI asked what progress the State party had made in amending its legislation on the right of children of mixed marriages to a nationality. The additional rights granted to women in respect of divorce attested to Egypt's intention to grant women the same status as men.

9. Mr. WIMER ZAMBRANO, noting that international law was automatically incorporated into domestic legislation, asked whether, in cases of a conflict, women could request a court to declare a law unconstitutional.

10. Mr. SALAMA (Egypt) said that Egyptian law was very favourable to refugees, since the principle of non-refoulement was embodied in the Constitution. Cooperation with UNHCR continued and should lead to greater participation on the part of the Egyptian authorities in decisions relating to the granting of refugee status. With regard to Egypt's reservation to article 24 of the Convention relating to the Status of Refugees, since Egyptians had to go abroad to work for economic reasons, the State party did not wish to have an inflow of economic refugees. It had not formulated a reservation in respect of article 17 because the Ministry of Labour reserved the right not to authorize a refugee to work. Since the restrictions applied to economic refugees only, they were not contrary to international refugee and human rights law.

11. It was possible to request a court to declare a law unconstitutional. The question did not arise in practice, however, since international conventions were negotiated in consultation with the Parliament and, when they were found to be incompatible with domestic legislation, the Government then formulated a reservation.

12. Reviewing the progress that had been achieved in respect of gender equality, he said that an act adopted in 2000 guaranteed full equality of rights for men and women in divorce cases. A woman could obtain a divorce within six months without having to prove that her husband was at fault. The article of the Penal Code according to which a man who had committed rape was not punished if he married the victim had been abolished. Many women had accepted that solution to save their family honour. Recently, the Ministry of Health had outlawed female genital mutilation and a State Council ruling had rejected the petition submitted by Islamic fundamentalists who had claimed that it was an Islamic practice. As far as nationality was concerned, the Ministry of Education had decided to grant free education to the non-Egyptian children of mixed couples. The National Council for Women, which had been recently established and which was chaired by the wife of the Head of State, was doing very useful work. Discussions were still going on on other issues and it was expected that specific measures would be introduced. For example, there were plans to grant Egyptian nationality to all children of mixed marriages and to show no more clemency towards men who murdered their adulterous wives. On the other hand, polygamy was subject to Islamic law and could not be abolished.

However, the number of cases of polygamy had fallen to 1 per cent, mainly for economic and cultural reasons. A husband who took a second wife had to inform the first wife, who then had the right to file for a divorce.

13. Mr. KHALIL (Egypt), replying to a question on discrimination against women, said that the measures taken by the Egyptian Government were intended especially to end women's submission to men. That traditional concept of the role of women continued to exist only in rural areas, where it was being combated through education and awareness-raising campaigns, as well as economic emancipation programmes; available data showed that those efforts were bearing some fruit. Consequently, although the illiteracy rate remained high among women at 51 per cent, a considerable number of women held responsible positions; in particular, two government ministers and one of the Vice-Presidents of Parliament were women and there were several female ambassadors.

14. With regard to the question of women taking their case before a court, women could institute legal proceedings as from age 15 and enjoyed the same obligations, rights and duties as men in that regard. As to the mandate and duties of the Attorney-General of the Republic, the post had been created in 1971 as part of action to combat illegal drug money.

15. The CHAIRPERSON invited the members of the Committee to make comments or request clarifications on the State party's written replies (HR/CESCR/NONE/2000/1) to issues 12 to 20 on the list of issues (E/C.12/EGY/1).

Articles 6 to 8 of the Covenant

16. Mr. KOUZNETSOV pointed out that, in the written reply to issue 12, it had been indicated that the Government intended to create 600,000 new jobs per year to reduce unemployment. Between 1997 and 1998, exactly 600,000 jobs had been created; the figures were too perfect to be true. Had the Government been able to maintain the same job creation rate in the last few years?

17. Mr. ANTANOVICH said that he would welcome further information on the labour law mentioned in the reply to issue 14. Concerning the minimum wage, the State party's reply did not indicate whether the amount corresponded to "the housewife's shopping basket" or whether it was simply a unit of measurement of salary movements.

18. Mr. TEXIER said that the unemployment rate had fallen to 7.4 per cent, and that was a good result considering that, in many countries, unemployment exceeded 10 per cent. However, he wished to know exactly what the percentage covered? Did it include the informal sector? Had it been calculated solely on the basis of the number of people who registered with job centres - and, if so, it should be reviewed - and did it really reflect the extent of unemployment? What specific programmes had been introduced to combat unemployment among young people, the long-term unemployed and women? There was a large number of working children aged 6 to 15; what concrete measures had the Government taken to remedy that situation? He would also like to know whether, in accordance with article 7 of the Covenant, the minimum wage guaranteed a decent living for workers and their families.

19. Turning to freedom of association, he recalled that the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations had repeatedly requested the Government of Egypt to guarantee the right of workers to form organizations of their choice and to ensure that those organizations were free to elect their representatives and organize their activities. Egypt's legislation and practice did not seem to be in conformity with ILO Convention No. 187 concerning freedom of association or the provisions of article 8 of the Covenant. Compulsory mediation could thus be imposed at the request of one of the parties to a strike - and that was undeniably a restriction on the right to strike. The Committee of Experts had also called for the amendment of article 14 of the 1995 Act, which required the prior consent of the General Union of Trade Unions in order to organize a strike. Had the Government amended that article or did it intend to do so? With regard to collective bargaining, the ILO Committee of Experts had long stressed the need for the amendment of article 87 of the Egyptian Labour Act, according to which any clause or collective agreement which could impair the country's economic interests would be declared null and void. That was a very serious provision, especially considering the vagueness of the term "economic interests". Had the Government amended that provision of the Labour Act, as it had agreed to do?

20. Mr. CEAUSU said that the Egyptian delegation had provided useful information which reflected the Government's desire to combat unemployment and create jobs. The results of its efforts were clearly visible, as seen in the country's economic growth and the fall in unemployment. However, in order to have a clearer picture of the exercise of the right to work, it would have been even more useful to have data on the structure of the economy and, in particular, on the public and private sectors and the contribution of industry, agriculture and services to gross domestic product (GDP).

21. With regard to the right to the enjoyment of just and favourable conditions of work, the reply to issue 14 indicated that article 170 of the Labour Act stated that employers who violated its provisions were liable to a fine. Could the delegation provide statistics or examples of punitive measures taken against persons who violated wage legislation? Also, no statistics had been given in reply to issue 16 on the application of the principle of equal pay for work of equal value; the delegation had simply said that there was no discrimination between the salaries of men and women or between persons performing the same job, regardless of their sex or religious or political beliefs. Statistics disaggregated by sex would have given a clearer picture of the situation.

22. As far as trade union rights were concerned, the reply to issue 17 indicated that the grouping of trade unions under one federation was in keeping with workers' wishes, but he wondered whether a referendum or some kind of consultation had taken place for workers to express that desire or whether that was just a supposition. Was trade union membership compulsory and to what extent were workers in Egypt unionized? One of the seven objectives of the new law on associations was to facilitate registration procedures; could the delegation say what those procedures entailed and what the difference was between the new law and the earlier legislation? How many associations had registered on the basis of the new law?

23. Mr. WIMER ZAMBRANO said that the answer to issue 17 on the grouping of trade unions under a single federation was inadequate. He did not believe that the measure reflected

workers' wishes, but was more of a decision that had been taken unilaterally by the authorities. History had shown that a single trade union federation, an authoritarian structure if ever there was one, corresponded to a certain political system, namely a socialist regime. He would appreciate more detailed information on the status of trade unionism in Egypt.

24. Mr. THAPALIA said that, under article 131 of the Egyptian Constitution, any treaty ratified by Egypt and published in the Official Gazette was considered to be an integral part of domestic legislation. In the event of conflict between the provisions of the Covenant and domestic legislation, which instrument took precedence, especially with regard to the right to freedom of association?

25. Mr. KHALIL (Egypt) said that a new draft Labour Code, which contained one part on the private sector and one on the civil service, had recently been drafted. Its preparation had involved broad-based participation, including political parties, associations and trade unions, for the purpose of arriving at a comprehensive text that guarantee all workers' rights.

26. As to efforts to combat unemployment, the creation of a social development fund, the distribution of land to young graduates and the introduction of large-scale projects had helped increase the number of workers from 14,879,000 in 1994-1995 to 16,955,000 in 1997-1998. The Government had undertaken to create 600,000 jobs per year and intended to maintain that job creation rate.

27. Replying to the question on the new law on associations, he said that the main advantages of the text were: the restriction of the administrative authorities' power; recourse to the courts in disputes between administrative authorities and associations; and the granting to associations and private bodies the authorization to receive funds from abroad, subject to approval by the competent administrative authority, with approval becoming automatic if a reply was not given within 60 days. The new law, which had been drafted with the participation of local associations, no doubt marked a step forward with regard to the right to freedom of association.

28. Mr. TAWFIK (Egypt) said that the minimum wage was an important matter, and one which should not be expressed in absolute figures, but should reflect the economic situation. That was why, following consultations with the social partners - unions, workers and employers - his Government had decided to index the minimum wage to economic performance and inflation. Egypt had also introduced a system of housing and transport allowances which, together with the minimum wage, provided a more satisfactory response to the population's needs.

29. The ILO annual report for 2000 stated that Egypt had incorporated the Right to Organize and Collective Bargaining Convention (No. 98) and the Freedom of Association and Protection of the Right to Organize Convention (No. 87) in the reform of its labour law. Egypt's application of those two conventions, which it had ratified, was being closely examined by the ILO monitoring machinery designed to help Governments decide in which areas there was room for improvement.

30. Egypt regarded the right to strike as a vitally important component of an effective collective bargaining system and believed that its workforce must be well represented and capable of defending its own interests. The labour law reform now in progress therefore attached great importance to that right.

31. Child labour was one of the developing world's major problems. Since the main causes were poverty and low incomes, Egyptian policy on child labour focused on schooling as a tool for helping to reduce poverty. To that end, Egypt had adopted a number of measures. First, it had established an appropriate legal framework, in particular by adopting a new law in 1999 which, inter alia, raised the minimum working age. It had also ratified ILO Convention No. 138 relating to the minimum working age and had begun the process of ratifying Convention No. 182 on the worst forms of child labour, which was the reference instrument in such matters. Secondly, it had put in place the administrative framework needed to supervise the application of the laws, established the Higher Council for the Protection of Motherhood and Childhood and set up a new department within the Ministry of Labour to coordinate measures to combat child labour. In the belief that education could play a decisive role, other measures such as compulsory primary education and a campaign to deter drop-outs had also been introduced. NGOs played a key role in the overall process. Rather than confine themselves to raising awareness, they were fully involved in rehabilitating the children removed from factories and other workplaces by labour inspectors and even took responsibility for their parents. The labour inspectorate's task was a difficult one: effective measures against child labour called for the training of inspectors and Egypt was working jointly with the ILO to introduce training programmes that included periods spent in both Geneva and Egypt.

32. Another important issue was how to evaluate progress. Although it was known that large numbers of children worked in Egypt, no reliable data were available, since they were most often employed in the informal sector; Egypt was cooperating with the ILO to set up a statistical programme. Although Egypt's overall objective was to abolish all forms of child labour, its first target was work that endangered children's health. Fortunately, very few Egyptian children were involved in the worst types of work covered by ILO Convention No. 182. At the next stage, it was intended that the campaign would be extended to child labour in other sectors, such as agriculture.

33. The law on associations in Egypt related to NGOs and not to unions, which were covered by the labour law reform.

34. Mr. WIMER ZAMBRANO said that he would like more information on the right to strike, especially the procedure for initiating a work stoppage. He asked whether the decision to declare a strike lawful or unlawful was the responsibility of the Ministry of Labour or the Ministry of the Interior.

35. Mrs. JIMÉNEZ BUTRAGUEÑO said that she would like more information about industrial accidents and occupational diseases and the measures taken by the Egyptian Government to deal with them.

36. Mr. TAWFIK (Egypt) said that the Government had established a reliable indicator of the unemployment rate in the form of the central authority which registered all job-seekers and

attempted to ensure full employment. However, the figures were distorted by the absence of statistics on the informal sector. All that could be said was that the most poorly educated and those who could neither read nor write could easily find work in the informal sector because they were prepared to accept anything, while those with a higher level of education were often unemployed. It was a moot point whether women should also be counted among the unemployed - it was difficult to draw a distinction between those who really did not wish to work and those who did not apply for fear of being refused a job that interested them. That said, the overall unemployment rate of 7.4 per cent was an adequate reflection of the true situation.

37. With respect to industrial accidents and occupational diseases, the Government had published a list of the various occupational activities posing a risk to health and for which safety rules had to be enacted.

38. Mr. PILLAY said that, according to the International Confederation of Free Trade Unions, Egyptian law did not recognize the right to strike and strikers were liable to up to two years' imprisonment. An example it had cited was a strike of railway workers which had resulted in the dismissal or suspension of many, together with prison sentences for some. It therefore seemed that Egypt did not comply with its obligations under the Covenant and urgently had to amend its Penal Code. In that case, he suggested that Egypt should reform its entire legislation rather than amend or repeal individual laws that did not comply with the Covenant.

39. Mr. KHALIL (Egypt) said that the right to strike did indeed exist in his country. It was regulated by Law No. 12 of 1995, which permitted union leaders to initiate a strike provided that they notified their employer and the competent administrative authority beforehand. The suspended or dismissed strikers just mentioned had not been punished, the courts having based their decision on the fact that the International Covenant on Economic, Social and Cultural Rights recognized workers' right to strike. Others had been punished not because they had gone on strike, but because they had committed criminal acts during the strike.

40. A reform of the legislation as a whole was precisely what Egypt was working on. The decisions of the Supreme Court, the Court of Appeal and the Constitutional Court took effect immediately and the laws were being amended as a result. Egypt intended to comply with its international obligations and to apply the ILO's stated policy on employment.

Articles 9 and 10 of the Covenant

41. Mr. MARCHÁN ROMERO requested clarification on the property rights of women who divorced, particularly as far as children's rights were concerned.

42. Mr. SADI asked the delegation whether it did not consider that the new legislation facilitating divorce, together with the husband's freedom to divorce arbitrarily, would weaken the institution of marriage and lead to harmful consequences for children. He suggested that, instead of denying mothers the right to transmit their nationality to their children, it might be more advisable to put an end to polygamy and thereby curb the population increase. He requested more information about family planning and sex education and asked whether excision, which was firmly condemned by law, was still practised, particularly in rural areas. Noting that Egypt had a tendency to formulate reservations whenever certain provisions

conflicted with its domestic law, he drew the delegation's attention to the fact that, under international law, it was no longer considered possible to formulate reservations on fundamental principles relating to human rights.

43. Mr. HUNT asked whether marital rape was punishable by law and, if not, whether the Government intended to amend the legislation accordingly.

44. Mr. KOUZNETSOV requested the delegation to explain the main reasons why Egypt had not ratified ILO Conventions Nos. 102 and 117 on social protection. Did the authorities plan to do so in the near future?

45. Mr. CEAUSU said that he wished to know more about the conditions governing the granting of welfare benefits in respect of industrial accidents and unemployment. How many years of work were required, for what period were payments granted and what criteria were used in determining the amount? With regard to the obstacles that had to be overcome in securing the right to enter into a marriage by consent, he asked what the authorities were doing to help children from giving in to the custom of early marriage. Did criminal legislation exist to deter that practice? Was it legally possible to annul marriages contracted in breach of the legislation on the minimum age? Did the authorities act firmly? Did they plan to introduce legislation designed to ensure compliance with the law on consent to marriage?

46. Mr. TEXIER asked the delegation whether the current system of retirement payments was geared more towards a shared scheme or towards a pension fund. With regard to the protection of pregnant women at work, he asked whether a female employee who had a baby was entitled to return to the same job after her maternity leave. Was it forbidden to dismiss a woman who was pregnant or had recently given birth? Turning to child labour, he asked whether the Egyptian authorities planned to raise the minimum working age and to take specific measures to reduce the number of working children, particularly by means of thorough schooling, at least at the primary level.

47. Mr. PILLAY, referring to article 11 of the Egyptian Constitution, said he considered that discrimination existed between civil servants and private-sector workers, with the former receiving more extensive benefits, for example in respect of maternity leave. Concerning child labour, it appeared that the laws were not respected and that workplaces were not inspected properly. He was surprised that no appeal had been filed with the Higher Constitutional Court in that regard.

48. Mr. THAPALIA requested more information about the number and circumstances of street children. Were they drug addicts, victims of sexual abuse, etc.? Who looked after them? Had the Government or NGOs taken steps to improve their situation?

49. Mrs. JIMÉNEZ BUTRAGUEÑO asked for clarifications about pensions, such as amounts paid in relation to final salary and the minimum and maximum payments. Were benefits, in particular old-age pensions, sufficient to provide a decent standard of living for the recipients? How was a widow's pension distributed where polygamy was involved?

50. The CHAIRPERSON asked whether it was true that women could obtain a speedy divorce provided that they relinquished their financial rights and paid back the dowry their parents had received from the husband. She would also like additional information on the difficulties the Government had encountered in implementing its measures to tackle violence towards women. Lastly, she asked what action the Ministry of Social Affairs was taking to promote and protect women's rights.

51. Mr. SALAMA (Egypt) said that a divorced woman's right to receive alimony from her former husband until the time of her remarriage and even if she did not need it was recognized in Islamic law. Moreover, the recently adopted Law No. 1 of 2000 required the public bank responsible for benefit schemes to substitute for the former husband if, for one reason or another, he was unable to fulfil his obligation. A husband had the right not only to divorce arbitrarily, but also to refuse an arbitrary divorce. The new law provided that a wife who was unable to obtain a divorce by amicable agreement - which meant with her husband's consent - must institute court proceedings to explain her reasons. The divorce could be granted on grounds of physical or mental maltreatment, in accordance with Islamic law, domestic law and legal precedents. Law No. 1 of 2000 introduced a new procedure allowing a woman to divorce her husband automatically, provided that she did not request alimony and repaid the dowry. Often only a modest sum was involved; the right to child custody was not affected. Since that law's entry into force, hundreds of cases had been brought before the courts. Although the law's opponents, who mainly represented conservative and religious tendencies, insisted that the family was being endangered, the delegation believed that the law would ultimately find full acceptance.

52. The main obstacles to the measures taken to counter violence towards women were traditional values and ignorance. The main aim of Law No. 1 of 2000 was to improve the situation of women. The main participants in the campaign were the Ministry for Social Affairs and the Higher Council for the Protection of Motherhood and Childhood - and it was vitally important that civil society should join them. Marital rape was not punishable by law, but, on the rare occasions it occurred, proceedings could be brought either on grounds of violence or of ill-treatment justifying divorce.

53. With regard to succession, the woman's share was equal to half that of the man. However, there was compensation in the fact that women were not obliged, either in law or in practice, to pay any household expenses. From birth until death, they were the responsibility of their fathers, brothers, husbands or, failing that, the social welfare system, especially on being widowed or on reaching old age. It was not the case that the labour laws discriminated between the civil service and the private sector; the two were simply covered by different schemes in respect of working hours, remuneration and other considerations.

54. Mr. TAWFIK (Egypt) said that his country had ratified all the fundamental ILO conventions. His Government was currently examining Convention No. 102 on social security jointly with the ILO and planned to introduce measures in that regard. The right of pregnant women to return to their jobs was guaranteed. Since 1999, in accordance with international law, the general minimum working age had been 14 years and the minimum age for hazardous work, 17 years.

The meeting rose at 1.05 p.m.